

1 Sonya D. Winner, SB # 200348  
2 David M. Jolley, SB # 191164  
3 Margaret G. May, SB # 234910  
4 COVINGTON & BURLING LLP  
5 One Front Street  
San Francisco, CA 94111  
Telephone: (415) 591-6000  
Facsimile: (415) 591-6091  
E-mail: mmay@cov.com

6 Attorneys for Defendant  
WELLS FARGO BANK, N.A.

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

VERONICA GUTIERREZ, *et al.*,

**Plaintiffs,**

v.

WELLS FARGO & COMPANY, *et al.*,

**Defendants.**

Civil Case No.: CV-07-5923 WHA (JCSx)

**[PROPOSED] ORDER RE  
ELECTRONIC DATA SECURITY**

Honorable William H. Alsup

On December 10, 2008, at 2:00 p.m., the Court heard the Motion for Protective Order (“Motion”) of Defendant Wells Fargo Bank, N.A. (“Wells Fargo”) in the above-captioned action. After oral argument and consideration of the pleadings and all documents relating to this Motion, the Court rules as follows:

IT IS ORDERED that Wells Fargo shall provide plaintiffs with access to the following data:

A. For a random sample of 10,000 California customers, electronic transaction data from May 14, 2008, to June 13, 2008, from the following sources:

1. The BMG data from the V\_Tran\_Detail\_HD table.
2. The BMG data from the V\_Tran\_Detail\_EP table.
3. The BMG data from the V\_Tran\_Detail\_CK table.

- 1       4. The BMG data from the V\_Tran\_Detail\_TQ table.
- 2       5. The BMG data from the V\_Tran\_Detail\_EW table.
- 3       6. The BMG data from the V\_Tran\_SUM\_YYYYMM\_DL table.
- 4       7. The electronic transaction data stored by the Settlement System.
- 5       8. The transaction data from the BEV database.

6           Wells Fargo shall provide plaintiffs with the algorithm used to generate the  
7           random sample of 10,000 customers.

- 8       B. For the same random sample of 10,000 customers, electronic transaction data  
9           from May 26, 2005, to June 1, 2005, from the BMG data sources listed in  
10          paragraphs A-1 though A-6 above.
- 11      C. The BR-14 and XR-Memo reports in electronic format for California customers  
12          from May 14, 2008, to June 13, 2008.
- 13      D. Electronic data from the RDS system for all California customer transactions  
14          from October 27, 2008, and October 31, 2008.

15           IT IS FURTHER ORDERED that, to protect the security of the personal  
16          financial data of Wells Fargo's customers, the data shall be produced in a "clean room" at a  
17          secure Wells Fargo facility in San Francisco, California. The following conditions shall apply:

- 18       A. The clean room shall remain locked at all times with cardkey access for an audit  
19           trail or with a passcode lock to be set by plaintiffs. The room shall be accessible  
20           to plaintiffs' counsel and their employees, retained experts, and consultants who  
21           sign an agreement to be bound by the Protective Order issued in this case on  
22           April 8, 2008. No Wells Fargo staff, contractors, or cleaning crew may be  
23           allowed access to the room.<sup>1</sup>

---

24  
25  
26  
27       <sup>1</sup> Fire marshals and/or emergency responders may, however, be allowed access after a  
28          reported safety issue.

1           B. Plaintiffs may bring into the room any hardware or software they wish other than  
2 modems or other devices to broadcast outside the room. The hard drives that  
3 plaintiffs use shall be inventoried prior to use, and shall be accounted for and  
4 destroyed after completion.

5           C. Plaintiffs' system shall be loaded with the requested electronic customer  
6 transaction data.

7           D. Plaintiffs may encode or encrypt their system so that no Wells Fargo personnel  
8 will have access to plaintiffs' work product. Wells Fargo shall not "spy" on the  
9 work conducted by plaintiffs in the clean room. Wells Fargo shall, if plaintiffs  
10 request it, provide a disaster-proof safe (with the combination to be set by  
11 plaintiffs) for plaintiffs to lock keys, software, backups, passwords, or other  
12 confidential property.

13           E. Plaintiffs shall not remove individual customer financial transaction data of any  
14 kind from the clean room. Plaintiffs may remove from the room work product  
15 reflecting aggregate analyses based on the data so long as no customer-specific  
16 information is disclosed in, or can be ascertained from, the removed material.  
17 Any such work product that plaintiffs remove from the clean room shall be  
18 designated "HIGHLY CONFIDENTIAL" under the Protective Order issued in  
19 this case on April 8, 2008.

20           With these security measures in place, the Court finds there to be no need to  
21 provide notice to Wells Fargo customers that their financial data is being analyzed by plaintiffs  
22 and their consultants.

23           IT IS FURTHER ORDERED that plaintiffs and their consultants shall be  
24 provided access to the clean room from 6:00 am until midnight each day until the close of fact  
25 discovery in this matter. Plaintiffs shall provide Wells Fargo with reasonable advance notice of  
26 those occasions when they will need such access outside of regular business hours.

1 IT IS FURTHER ORDERED that Wells Fargo shall designate a liaison who shall  
2 be reasonably available to resolve logistical problems that plaintiffs and their consultants may  
3 encounter in connection with their use of the clean room.

4

5 DATED: December 16, 2008

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

Hon. William

